

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ACI-SCC JV, et. al.)	
through their Trustee, Arwand Road and)	
Construction Company,)	
Plaintiffs,)	Case No.
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
Defendant)	

**DECLARATION OF SHOAIB LATIFI IN SUPPORT OF THE
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

I, Shoaib Latifi, declare as follows:

1 I am a citizen of Afghanistan, and the President of Arwand Road and Construction Company ("Arwand").

2 In July 2011, Arwand entered into a subcontract with ACI-SCC JV, ACI-SCC JV LLC and Advanced Constructors International LLC ("ACI") concerning contract number W5J9JE-10-D-0017 task order 0013. That subcontract had several modifications that increased the value of Arwand's contract.

3 Arwand performed as required under the contract, submitted reports, and completed its work on a timely basis. A few of Arwand's invoices were paid. Several other invoices were submitted and were not paid.

4 Arwand and other subcontractors were told by ACI-SCC JV, ACI-SCC JV LLC, and ACI that the subcontractor's invoices had not been paid because the U.S. Army Corps of Engineers ("USACE") had not paid ACI-SCC JV, ACI-SCC JV LLC, and ACI.

5 After months of non-payment, and no assurance from ACI-SCC JV or ACI that it would be paid, Arwand and other subcontractors contacted the contracting officer for contract W5J9JE-10-D-0017 task order 0013 to determine when the USACE would pay the invoices of

ACI-SCC JV, ACI-SCC JV LLC, and ACI.

6 I received a copy of USACE's serial letter C-0037. In that letter, the contracting officer, Edward A. Boddie, wrote to ACI-SCC (JV) that ACI-SCC (JV)'s pay request #21 was rejected. One of the reasons for the rejection was because ACI-SCC (JV) did not "Provide evidence that the amounts listed as due to subcontractors on your previous Progress Payments has actually been disbursed." Later in that letter, USACE confirmed Plaintiffs nonpayment of subcontractors. "NOTE: Complaints of nonpayment by subcontractors have taken up a substantial amount USACE [sic] resources just in listening to the complaints."

7 I received a copy of USACE's serial letter C-0038 dated July 9, 2012. In that letter, the USACE's Contracting Officer Representative wrote to ACI-SCC (JV) that "Pay request #20, in the amount of \$92,700, received 25 June 2012, for contract number W5J9JE-10-D-0017 0013, is hereby withheld in its entirety till all subs non/late payment issues are resolved. Many of your subcontractors have complained to USACE about not being paid for work performed on this contract."

8 The contracting officer informed Arwand and the other subcontractors that the USACE had paid ACI-SCC JV for all its past invoices. Only the current invoices were unpaid.

9 Arwand was not paid and stopped work because neither ACI-SCC JV, ACI-SCC JV LLC, ACI nor the USACE would take any steps to pay Arwand's outstanding invoices.


10 The USACE knew that the subcontractors had not been paid, and had set aside money for the subcontractors but never made provisions to pay the subcontractors.

11 The contracting officer, Edward A. Boddie, knew or had a reasonable belief that Arwand and other subcontractors had not been paid on contract W5J9JE-10-D-0017 0013. The USACE then sought to harm the unpaid subcontractors by entering into a no-cost settlement

pursuant to FAR 49.109-4 with ACI-SCC JV, ACI-SCC JV LLC and/or ACI to eliminate the USACE's contractual liability to the teaming members.

I declare under penalty of perjury under the laws of the State of United States that the foregoing is true and correct.

Date: August 25, 2017


Sign: e-Signed by Shoaib Latifi
on 2017-08-25 12:45:37 GMT
Shoaib Latifi